



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/679,790	10/06/2003	Keith Gerard Nemitz	Hodges-Nemitz	3725

7590 11/02/2006  
Keith G. Nemitz  
4329 Salem St.  
Emeryville, CA 94608

EXAMINER
----------

THOMAS, ERIC M

ART UNIT	PAPER NUMBER
----------	--------------

3714

DATE MAILED: 11/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/679,790

Applicant(s)

NEMITZ, KEITH GERARD

Examiner

Eric M. Thomas

Art Unit

3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10/6/03
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 4/5/04
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Claim Objections***

1. Claim 1 is objected to because of the following informalities: The description of features discussed in this claim, are not in the expected order. The "(f)", and "(g)", labeled sections in claim 1 need to be swapped or switched around. Appropriate correction is required.

### ***Drawings***

2. New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because the current drawing only shows a example simulation of a game situation, so there is no drawing provided that shows how the invention actually works. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 103***

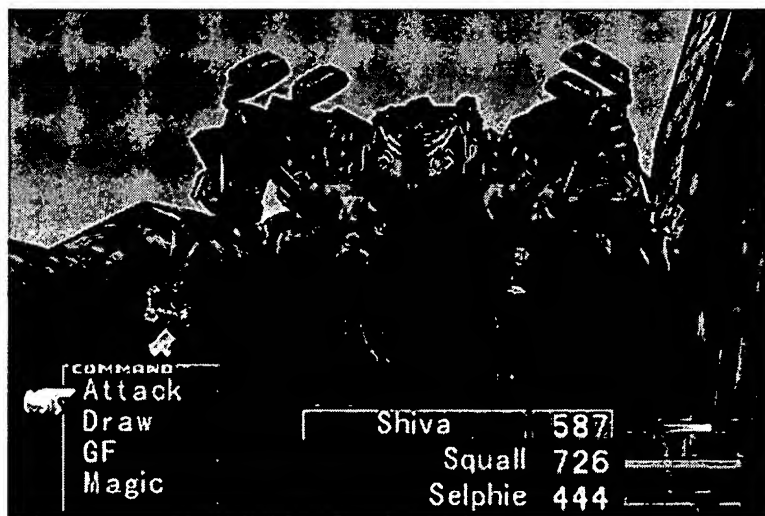
3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over the personal computer game "Final Fantasy VIII" (Square Co. release date Jan. 2000), and further in view of Knight (U.S. 5676551).

Regarding claims 1, 12-14 Square Co. provided a console role-playing game (RPG) in which the game-play consists of characters who is involved in a narrative that determine the events of a story (see pg. 6). Basically this means that the user controls the narrative based on decisions he/she makes instead of the character itself. The user is provided with a list of items or elements in which the user has to choose from, depending on random encounters and events, to advance through the narrative. Figure (1) below is a sample screenshot from the PC version of "Final Fantasy VIII", where an opponent confronts the characters.

Fig. (1)



The "Final Fantasy VIII" game differs from Knight by not providing a feature to allow the user to reverse or rewind the narrative (see col. 28, lines 4 & 5) it is only allowed to move forward with the narrative. Therefore, it would have been obvious to one of

ordinary skill in the art at the time of the invention to include a rewind or reverse feature of Knight in an interactive narrative as an added feature, which enhances the game-play in case the user wanted to return back to a previous narrative for any particular reason which benefits the user.

Regarding claim 2, "Final Fantasy VIII" discloses a list of items or elements, which are generated depending on events that are happening during game-play (see pg. 17). Therefore it would have been obvious to one of ordinary skill in the art at the time of invention to provide an interactive which includes a list of elements that are generated as a result of a certain event.

Regarding claim 3, "Final Fantasy VIII" provides a setting where the game determines which list of elements are available to the user depending on a current situation of the narrative (see pg. 17, "Battle Screen"). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include a setting where lists of elements are provided depending on the situation within the story.

Regarding claim 4, "Final Fantasy VIII" has a feature where the list of elements, each item in the list is identified by a certain symbol (see pg. 13, "Menu Screen"). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to include symbols in the list of elements for an interactive narrative.

Regarding claim 5, "Final Fantasy VIII" provides an option, in which the user could buy and sell items, in order to advance through the narrative (see pg. 11). Therefore, it would have been obvious to one of ordinary skill in the art at the time of

invention to include, as said in the claim, a “*static event*” where the user will encounter such events that will play out when the user selects them.

Regarding claim 6, “Final Fantasy VIII” discloses events in which the narrative may play out differently depending on the decision of the user. An example of this could be the user may decide to runaway from a battle that could lead to another path of the story, or maybe another battle with another character (see pg. 17). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include, as said in the claim, a “*dynamic event*” where the user will encounter such events that may or may not alter the story.

Regarding claim 7, “Final Fantasy VIII” discloses a feature in which the user, in a fight situation, could control the character’s actions during the fight (see pg. 17). Therefore it would have been obvious to one of ordinary skill in the art at the time of invention to include an event of enactment in which the user could control the character’s actions.

Regarding claims 8 and 9, “Final Fantasy VIII” discloses a feature in which the characters in the narrative may sometimes receive certain items as a result of winning a battle (see pg. 11). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include a feature, which allows a character that advances through the narrative to receive items as the story progresses.

Regarding claims 10 and 11, “Final Fantasy VIII” has a plot where there is a main goal (see pg. 6) that has to be achieved by the characters while being guided by the user. During the story the character’s attributes or behavior may change depending on

Art Unit: 3714

experiences with other characters throughout the narrative (see pg. 12 “Item – Using Items”). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to provide a plot where the characters attributes may change to achieve a goal.

Regarding claim 15, “Final Fantasy VIII” has a feature where the user could save the game’s progress in order to resume the game at a later time. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include a save game data feature in order to continue the game’s progress at a later time.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric M. Thomas whose telephone number is (571) 272-1699. The examiner can normally be reached on 7:30a.m. - 3:30p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, Xuan Thai can be reached on (571) 272-7147. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Art Unit: 3714

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or (571) 272-1000.

EMT



**XUAN M. THAI**  
**SUPERVISORY PATENT EXAMINER**

*TC 3700*